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MEMBERS DISCUSS

MR. SPENCER'S BANKING AMENDMENT

Continued from last week
Mr. Spence: If the bill receives second reading it should receive it only on condition that the committee to which the bill is referred shall have the privilege of recommending changes along the line I have suggested, or along some other line.

Mr. Garland (How River): That may be done when it is referred to the banking and commerce committee.

Mr. Raymond D. Morand (East): One must sympathize with the sponsor of this bill when the act is realized that the maintenance of interest has been stipulated by statute. To my mind however the chief trouble does not lie in the rate of interest charged, because the contract whereas the interest charge appears to be made between the bank and the borrower, the bank is unable to pay his loan and tries to charge a higher rate of interest than is covered by the contract, and he not being able to borrow the money from other quarters is forced to re-borrow his loan at a higher rate. I certainly think the bank is at fault and I have a great deal of sympathy for the borrower. I believe if the sponsor of the bill had made some change whereby the rate of renewal should not exceed the prime rate, which after all is 7 per cent in the Bank Act, they would accomplish the purpose they have in view and it would not be necessary to include in the bill such severe penalties.

Mr. Campbell: Might I suggest that the real object of the bill is to carry out the original intention of parliament under the Bank Act? Mr. Morand: At the present time it is quite evident in the Bank Act that more than 7 per cent is not recoverable. Mr. Campbell: But the fact is that the banks by a technicality ignore that provision of the act. No rate of interest is mentioned on the note, the bank claims it has discounted the note, and we find that we have no recourse under this clause in the Bank Act. Mr. Morand: That is something new so far as I am concerned. I all the notes I have ever signed and I have signed a good many. The rate of interest was always stated; in many cases it was printed on the face of the note. This is why I returned to the fact that if on your first borrowing the interest is definitely stated on the note, it is purely a matter of contract between the bank and the borrower. I should feel much more inclined to support the bill if it were a question of renewal of the original loan.

Mr. Garland (How River): Let the bill go to the banking and commerce committee.

Mr. J. J. Maloney (South River): Mr. Spence, I think it is present is a dangerous time to interfere with our banking institutions. They may be good, or they may be bad, nevertheless when the time of stress comes we all have to resort more or less to the banks to help us through. An hon. Member: Mostly more. Mr. Maloney: They have the good times, perhaps today. They are not so good. But if at the present time Canada is financially sound, I for one feel that we may thank our banking institutions for that very desirable condition. I cannot see why we should seek to amend an act which has been in force for so many years. True, 7 per cent may be too high a rate of interest. The usury rate is supposed to be 12 per cent, but in my experience I have never heard of a bank charging such a rate of interest.

An hon. Member: They used to charge 24 per cent in the '30s. Mr. Maloney: I never lived in the '30s. I think it would be well to defer consideration of this matter for a year or two. We all know that the banks are passing through a crisis, just the time as the rest of us are. The banks may have charged too high a rate of interest in some cases, but we in our turn may have charged more than was proper in connection with some of our transactions. For my part I cannot see my way clear to support the bill at the present time.

Mr. H. H. Hanson (York-Sunbury): Mr. Spence, it does seem to me a startling proposition to attempt to make a purely civil transaction an indictable offence.

An hon. Member: Why not? Mr. Hanson (York-Sunbury): I have no doubt that the sponsor of this bill is influenced by the very best of motives and feels that redemption in his part of the country is his in proposing legislation.

of this character. But to say that on a private contract, purely legal on its face, a bank goes beyond a certain well-defined limit, which in itself is not a flat rate or interest-it should be guilty of an indictable offence and liable on conviction to a fine not exceeding \$500 seems to me hard to justify. But the penalty does not stop there. The section continues--and everyone who, being a director, manager or officer of any bank, violates the said provision shall be guilty of an indictable offence and liable, on conviction, to a fine not exceeding one thousand dollars or to imprisonment for term not exceeding two years.

That certainly is a very rather and drastic provision, and of a class and character which I do not think any member of this house after giving the matter his careful judgment would care to see put up on the statute books of this country. I would suggest to my hon. friend that he withdraw the bill in view of the fact that the Bank Act will in the ordinary course of events be renewed in the next two years. If I recall correctly, he was a member of the banking and commerce committee when the Bank Act was last revised, and at that time matters germane to this subject matter of this bill were under discussion. A change was made in the provisions of the act whereby, it was provided that no matter what rate might be charged on the face of a bill or a contract anything exceeding 7 per cent would not be recoverable in any action. I think the conditions were not materially changed since the banking and commerce committee refused to go as far as he desired, and the therefore the necessity for this bill does not exist. I can well sympathize with anyone who is desirous of legislating against "vix", but I do not consider that any case of a serious nature has been made out. There may be exceptions

at cases which the hon. gentleman seeks to deal with, but he should not predicate general legislation on this character upon isolated instances, and I think he would do well to arrive at what the act is. Mr. Spence: The hour for private and public bills having expired, the house will now proceed to government orders.



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